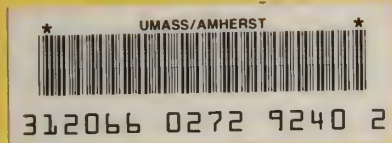


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THE COMMONWEALTH OF MASSACHUSETTS

L A W S     R E L A T I N G     T O     A E R O N A U T I C S

CURRENT TO APRIL 1, 1984

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PREPARED BY  
MASSACHUSETTS AERONAUTICS COMMISSION  
BOSTON-LOGAN AIRPORT  
EAST BOSTON, MASSACHUSETTS 02128



## FOREWORD

This pamphlet was compiled by the **MASSACHUSETTS AERONAUTICS COMMISSION** as a reference to the Massachusetts laws pertaining to aeronautics. We have endeavored to include all sections of general and special laws which apply to aeronautics either directly or indirectly and include changes through the 1980 session of the Legislature.

It was designed as a convenient digest, and is not a legal reference. Persons desiring further study of specific laws of particular interest will find the pertinent sections cited for their convenience.



# COMMONWEALTH OF MASSACHUSETTS

## AERONAUTICAL LAWS

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\*UNLESS OTHERWISE STATED, ALL CHAPTERS CITED ARE FROM THE  
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THE COMMONWEALTH OF MASSACHUSETTS  
MASSACHUSETTS AERONAUTICS COMMISSION

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A E R O N A U T I C A L            L A W S

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GENERAL LAWS (TER. ED.) CHAPTER 90, SECTIONS 35 THROUGH 52,  
AS AMENDED

SECTION 35

The following words and phrases used in sections thirty-five to fifty-two, inclusive, shall have the following meanings unless a different meaning is clearly apparent from the language or context, or unless such construction is inconsistent with the manifest intention of the general court.

- (a) "Aeronautics", transportation by aircraft; the operation, construction, repair or maintenance of aircraft, aircraft power plants and accessories; the repair, packing and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair or maintenance of airports, restricted landing areas or other air navigation facilities; and instruction in flying or ground subjects pertaining thereto.
- (b) "Aircraft", any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.
- (c) "Public Aircraft", an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any state, territory or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.
- (d) "Civil Aircraft", any aircraft other than a public aircraft.
- (e) "Airport", any area of land or water other than a restricted landing area, which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

- (f) "Restricted Landing Area", any area of land or water other than an airport which is used, or is made available, for the landing and takeoff of aircraft; provided, that the use of such an area may be restricted from time to time by the commission.
- (g) "Airport Hazard", any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or restricted landing area, or is otherwise hazardous to such landing or taking off.
- (h) "Air Navigation Facility", any facility, other than one owned or controlled by the federal government, used in, available for use in, or designed for use in, aid of air navigation, including airports, restricted landing areas, and any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking off, navigation and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area, and any combination of any or all of such facilities.
- (i) "Airman", any person who engages, as the person in command, or as pilot, mechanic or member of the crew, in the navigation of aircraft while under way, and any person who is directly in charge of the inspection, maintenance, overhauling or repair of aircraft engines, propellers or appliances, and any person who serves in the capacity of aircraft dispatcher or air traffic control tower operator; but does not include any person employed outside the United States, or any person employed by a manufacturer of aircraft, aircraft engines, propellers or appliances, to perform duties as inspector or mechanic in connection therewith, or any person performing inspection or mechanical duties in connection with aircraft owned or operated by him.
- (j) "Operation of Aircraft" or "Operate Aircraft", the use, navigation or piloting of aircraft in the airspace over this commonwealth or upon any airport within this commonwealth. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control, in the capacity of owner, lessee or otherwise, of the aircraft, shall be deemed to be engaged in the operation of aircraft.
- (k) "Aeronautics Instructor", any person who for hire or reward engages in giving instructions or offering to give instruction in flying or ground subjects pertaining thereto; but does not include any instructor in a public school, university or institution of higher learning duly accredited and approved for carrying on collegiate work, who instructs in flying, or ground subjects pertaining thereto, only in the performance of his duties at such school, university or institution.
- (l) "Air School", (1) any aeronautics instructor who advertises, represents or holds himself out as giving or offering to give instruction in flying or ground subjects pertaining thereto; and (2) any person who advertises, represents or holds himself out as giving or offering to give instruction in flying or ground subjects pertaining thereto, whether for or without hire or reward; but does not include any public school or university or institution of higher learning duly accredited and approved for carrying on collegiate work.

- (m) "Commission", the Massachusetts aeronautics commission.
- (n) "Director", the director of aeronautics employed by the commission.
- (o) "Person", any individual, firm, partnership, corporation, company, association, joint stock association; and includes any trustee, receiver, assignee or other similar representative thereof.
- (p) "Navigable Airspace", airspace above the minimum safe altitudes of flight prescribed by regulation by the commission. Such navigable airspace shall be subject to a public right of air navigation in conformity with the provisions of said sections and with the regulations and air traffic rules issued by the commission.
- (q) "Dealer in Aircraft" or "Aircraft Dealer", any person who engages in a business a substantial part of which consists of the manufacture, sale, or exchange of aircraft.

## SECTION 35A

The safety, welfare and protection of persons and property in the air and on the ground requires that the navigable airspace overlying the commonwealth in the approaches to, and the air traffic pattern area of, airports approved by the commission be maintained in a reasonably unobstructed condition for the safe flight of aircraft, and therefore, in the exercise of the police power, the location and height of structures and the use of land thereto related is regulated as provided in sections thirty-five B to thirty-five D, inclusive.

## SECTION 35B

No person shall erect or add to the height of any structure within a rectangular area lying fifteen hundred feet on either side of the extended center line of a runway or landing strip of an airport approved by the commission for a distance of two miles from the end of such runway or landing strip so that the height thereof will be more than one hundred and fifty feet above the level of such runway or landing strip, nor, within that portion of such area which is within a distance of three thousand feet from the end of such runway or landing strip, so that the height thereof will be greater than a height above the level of such runway or landing strip determined by the ratio of one foot vertically to every twenty feet horizontally measured from the end of such runway or landing strip, unless a permit therefor has been granted by the commission.

The provisions of this section shall not apply (1) to areas subject to airport approach regulations adopted pursuant to sections forty A to forty I, inclusive, (2) to air approaches to the General Edward Lawrence Logan International Airport, nor (3) to structures which will be thirty feet or less in height above ground.

## SECTION 35C

Application for such permit shall be made to the commission on a form furnished by it.



If such application is granted, the permit shall specify the location of such structure or a defined area within which it shall be located, its maximum height, and, in conformity with federal laws and regulations insofar as applicable, the obstruction markers, marking, lighting or other visual identification characteristics to be installed thereon or in its vicinity. If not inconsistent with federal laws and regulations, the permit may require that lights flash at intervals and in a specified pattern.

If such application is denied, notice thereof shall be given the applicant by certified mail at the address specified in the application. The applicant may, within twenty days thereafter, file a written request with the commission for a public hearing. Such hearing shall be subject to the provisions of chapter thirty A.

## SECTION 35D

The provisions of section thirty-five B shall not be construed to prohibit the maintenance, repair or replacement nor to require any change in the height or location of any structure existing prior to the initial approval of an airport by the commission or prior to the construction of a runway or landing strip at an airport so approved.

Notwithstanding the provisions of section thirty-five B, an addition in height or otherwise may be made to any structure which exceeded a height of one hundred and twenty-five feet above ground prior to the initial approval, after January first, nineteen hundred and sixty, of an airport by the commission or prior to the construction of a runway or landing strip at an airport so approved after said date.

For the purposes of this section initial approval shall be construed to include reapproval where approval has been withdrawn for a period following initial approval.

The provisions of section thirty-five B of chapter ninety of the General Laws, inserted by section one of this act, shall not be construed to prohibit the maintenance, repair or replacement nor to require any change in the height or location of any structure existing on the effective date of this act.

(NOTE: Sections 36 to 38 inclusive of Chapter 90 of the General Laws are repealed by Chapter 583, Section 2, of the Acts of 1946; Section 1 of said Chapter replaces these Sections by new Sections 57, 58 and 59 in Chapter 6 of the General Laws.)

## SECTION 39

The commission shall have general supervision and control over aeronautics.

Subject to the approval of the governor, the commission may represent the commonwealth in matters relative to aeronautics before boards, commissions, departments or other agencies of the federal government and other states and international conferences, and before committees of the congress of the United States.

For the purpose of carrying out the provisions of sections thirty-five to fifty-two, inclusive, and for the purpose of protecting and insuring the general public interests and safety, and the safety of persons receiving instructions concerning, or operating or using aircraft and of persons and property being transported in aircraft, and for the purpose of developing and promoting aeronautics within the commonwealth, the commission may perform such acts, may issue and amend such orders and may with the approval of the governor and council, make and amend such reasonable general or special rules and regulations as it deems necessary; provided, however, that such rules and regulations shall not be inconsistent with, or contrary to, any act of the congress of the United States relating to aeronautics or any regulations promulgated or standards established pursuant thereto. No rule or regulation of the commission shall apply to airports, restricted landing areas, or air navigation facilities owned or operated by the United States within the commonwealth.

## **SECTION 39A**

The commission shall prepare and revise from time to time a plan for the development of airports and air navigation facilities in the commonwealth. Such plan shall specify, in terms of general location and type of development, the projects considered by the commission to be necessary to provide a system of airports adequate to anticipate and meet the needs of civil aeronautics within the commonwealth. In formulating and revising such plan the commission shall consider the probable technological developments in the science of aeronautics, the protection and safety of persons operating aircraft, the needs of the national defense program, air commerce and private flying in order that locations of such airports and air navigation facilities will provide the greatest safety, security and utility. In carrying out this section the commission may make such surveys, studies and investigations as it may deem necessary or desirable.

The commission may, subject to appropriation, construct, establish and maintain air navigational facilities within the commonwealth for the convenience and safety of persons operating, using or traveling by aircraft, and for the safety of the general public. The commission on behalf of the commonwealth may take by eminent domain under chapter seventy-nine or eighty A, or acquire by purchase, gift or otherwise, such property as may be necessary to fulfill the requirements of this section.

## **SECTION 39B**

Each city or town before acquiring any property within the commonwealth for the purpose of establishing, constructing, enlarging or improving thereon an airport or restricted landing area, shall apply to the commission for a certificate of approval of the site. Before granting a certificate of approval for an airport or restricted landing area, the commission may, and upon the request of a resident of such city or town shall, hold a public hearing in the city or town where such airport or restricted landing area is to be located and at least seven days' notice of such hearing shall be published by the commission in a newspaper of general circulation in such city or town. The commission may authorize one member or the director to hold such a hearing.



No such certificate of approval of a site for an airport or restricted landing area shall be issued by the commission if such airport or area is situated on any lake or pond outside the metropolitan area, unless such site has previously been approved by the mayor and city council of the city, or at an annual or special town meeting of the town, within which the same is located.

All airports, restricted landing areas, and air navigation facilities shall conform to plans and specifications approved by the commission and shall not be in conflict with the state airport plan and no such airport, restricted landing area or air navigation facility shall be maintained or operated unless a certificate of approval of the maintenance and operation thereof is granted and is continued in force by the commission; provided, that no such certificate of approval with respect to a restricted landing area or air navigation facility on which public funds have been expended shall confer an exclusive right for the use thereof.

This section shall not apply to restricted landing areas designed for non-commercial private use, nor to any airport, restricted landing area or other air navigation facility owned or operated within the commonwealth by the federal government; provided, that each person constructing or maintaining a restricted landing area for non-commercial private use shall so inform the commission in writing; and provided further, that such person shall construct and maintain said restricted landing area in such manner as shall not endanger the public safety.

All approvals or licenses of airports or restricted landing areas granted by the commission prior to the effective date of this section shall remain in effect.

(Amended new paragraph - See p. 37)

## SECTION 39C

The commission is hereby authorized to expend such sums as may be appropriated for the purpose of reimbursing cities or towns for airport construction as provided in section thirty-nine F. Such reimbursements shall be subject to the provisions and restrictions of said section thirty-nine F and of section fifty-one K, and the commission may, without appropriation, receive and distribute such federal funds as may be available therefor; provided, that such expenditures are otherwise in accordance with law.

The balance of funds now credited to the State Aeronautics Fund shall be transferred to the General Fund of the commonwealth.

(NOTE: Section 39D repealed by Section 11, Chapter 637 of the Acts of 1948.)

## SECTION 39E

The commission, when it considers such assistance desirable and feasible, may provide, without charge, engineering or other technical services to any city or town requesting such services in connection with the acquisition, construction, establishment, enlargement, improvement or protection of any airport or restricted landing area which conforms to the state airport plan.

## SECTION 39F

Whenever any city or town undertakes, in conformity with the state airport plan, the acquisition, construction, establishment, enlargement, improvement or protection of an airport and has appropriated sufficient funds, which together with funds available under this section, shall equal at least fifty percent of the cost thereof, the state treasurer, at the request of the commission, shall pay to or reimburse such city or town from such funds as have been appropriated for such purposes, such amount, not exceeding forty percent of the cost of such work, as may be determined by the commission.

If any such city or town appropriates sufficient funds, which, together with the funds available under this section, is equal to one hundred percent of the cost thereof, the state treasurer, at the request of the commission, shall pay to or reimburse such city or town from such funds as have been appropriated for such purpose, such amount, not exceeding fifty percent of the cost of such work, as may be determined by the commission.

Any funds appropriated prior to the effective date of this act for reimbursement to cities and towns for airport construction, and unexpended, may be used for any or all of the purposes authorized by section thirty-nine F of chapter ninety of the General Laws, as amended, without the requirement of matching federal funds.

## SECTION 39G

The provisions of sections thirty-five to fifty-two, inclusive, applicable to any city or town shall apply to airports and aeronautical facilities owned or operated by any county, except for the method of appointment of the airport commission thereof, which commission shall be appointed by the county commissioners.

## SECTION 40

The Massachusetts aeronautics commission, in sections thirty-five to fifty-two, inclusive, called the commission, shall foster air commerce and private flying within the commonwealth and for such purpose shall: (a) encourage the establishment of airports and air navigation facilities and the development of education in aeronautics; (b) make recommendations to the governor and to the general court as to necessary legislation or action pertaining thereto; (c) consult with the civil aeronautics administration and other agencies of the federal government in carrying forward research and development in aeronautics; (d) exchange with the said civil aeronautics administration and with other state governments through existing governmental channels information pertaining to civil air navigation.

The commission may: (1) cooperate with the federal government, and with any agency or department thereof, in the acquisition, establishment, construction, enlargement, improvement, protection, equipment, maintenance and operation of airports and other air navigation facilities within the commonwealth, and comply with the provisions of federal law, and any rules and regulations made thereunder, for the expenditure of federal funds for or in connection with



such airports or other navigation facilities; (2) accept, receive and receipt for federal funds, and also other funds, public or private, for and in behalf of the commonwealth or as agent for any subdivision thereof, for the acquisition, establishment, construction, enlargement, improvement, protection, equipment, maintenance and operation of airports and other air navigation facilities within the commonwealth or such subdivisions, or jointly; provided that, if federal funds are received for such work, such funds shall be accepted upon such terms and conditions as may be prescribed by federal law and any rules and regulations made thereunder; (3) advise and cooperate with any political subdivision of this state or of any other state in all or any matters relating to aeronautics. For such purpose the commission may confer with, or hold joint hearings with, any federal or state aeronautical agency in connection with any provision of sections thirty-five to fifty-two, inclusive.

The commission shall enforce sections thirty-five to fifty-two, inclusive, and all orders, rules and regulations made pursuant thereto and other laws of the commonwealth relating to aeronautics, and shall have and may exercise for any or all of such purposes such powers and authority as may be reasonably necessary therefor. Every state, county and municipal officer charged with the enforcement of laws in their respective jurisdiction shall assist and cooperate with the commission in such enforcement.

Persons employed as inspectors under the provisions of section fifty-nine of chapter 6 shall have and exercise throughout the commonwealth all the powers of constables, except the service of civil process, and of police officers, including the power to arrest any person who, in the presence of the inspector making the arrest, commits a breach of the peace which violates any provision of the aviation law as contained in this chapter or the rules and regulations established by the commission and they may serve all process issued by the courts with respect to the enforcement of such laws. Any officer authorized to make arrests, providing such officer is in uniform, or displaying his badge of office conspicuously on his outer coat or garment, may arrest without a warrant any person who operates an aircraft and who does not have in his possession a license to operate an aircraft, granted by federal authority; or who violates any statute or regulation relating to the operation or control of aircraft; or who operates said aircraft while under the influence of intoxicating liquor; or who refuses to produce a pilot or aircraft license or registration upon request; or who uses an aircraft without authority; or who is a non-resident operator violating any statute or regulation relating to the control of aircraft.

The pilot in command of any aircraft carrying passengers for hire may take such action as is reasonably necessary to restrain any person who interferes with, or threatens to interfere with, the operation of the aircraft.

The person so restrained may be placed in charge of a police officer in the city or town where the aircraft next lands within the commonwealth, to be taken to a lawful place of detention. Complaint shall be made against the person arrested, by the officer taking him to the place of detention, to a district court having jurisdiction over such offenses committed in the city or town where such person is detained, and such court shall have jurisdiction of the case.



## SECTION 40A

Any city, except Boston, and any town, may by ordinance or by-law adopt, and may administer and enforce, in the manner and upon the conditions hereinafter prescribed, approach regulations relative to approaches to publicly owned airports, applicable to areas within such city or town in this section and sections forty B to forty I, inclusive, called airport approach regulations. Such regulations may divide any such area into sections and may within each section regulate and restrict the height to which structures and trees may thereafter be erected or allowed to grow. Any such regulations from time to time be amended or repealed. Such regulations and amendments thereto shall be effective when approved by the commission and the attorney general and recorded as hereinafter provided. Such regulations or any amendments thereto shall as soon as may be after adoption and approval be recorded in the registry of deeds of each county and district in which any portion of the land to which such regulations apply is located, and notice that such regulations or amendments have been adopted shall be sent by mail to the owner of every parcel of land to any portion of which such regulations or amendments are applicable. For the purposes of this provision the person to whom the land was assessed in the last preceding annual tax levy shall be deemed to be the owner thereof, and the notice shall be addressed in the same manner as the notice of such tax, unless a different owner or a different address is known to be the correct one. Such notice shall also be given by publishing, in a newspaper of general circulation, if any, in each city and town in which any portion of the land subject to the regulations is located, a map of the area subject to the regulations, with sufficient explanatory matter to give the public and the owners of land reasonable notice of the adoption of the regulations or amendments, or by posting such map and explanatory matter in one or more public places in each such city and town.

## SECTION 40B

All airport approach regulations adopted under this chapter shall be reasonable, and no such regulation shall require the removal or lowering, or other change or alteration, or prohibit the repair or replacement, of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any such non-conforming structure or tree, except as provided in section forty G.

## SECTION 40C

In a city airport approach regulations may be adopted, amended or repealed only by action of the city council, and in a town only by vote of the town, at a meeting called for the purpose, and in either case only after a public hearing held by the city council of the city or the selectmen of the town, at which hearing all persons who might be affected in their property by the regulations, all inhabitants of the city or town, all persons liable to taxation therein and all inhabitants of adjoining cities and towns shall have an opportunity to be heard. At least fifteen days' notice of the time and place of the hearing shall be published in a newspaper of general circulation, if any, in the city or town. Airport approach regulations may be adopted by a city or town, although the airport, the approaches to which they are designed to protect is located in another city or town.

## SECTION 40D

(1) A city or town may by ordinance or by-law prohibit the erection of new structures or the replacement or substantial alteration of existing structures within the area to which airport approach regulations adopted under section forty A apply, without a permit from the administrative agency authorized to administer such regulations; but such a permit shall be issued as of right if the structure as erected or altered is in conformance with such regulations or will not constitute a greater hazard than the structure which is replaced or altered. No such permit shall be granted, except as provided in subsection (2) of this section, which would allow the structure or tree in question to be erected or allowed to grow to a greater height, or to become a greater hazard to air navigation, than when the applicable regulation was adopted. (2) Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, in a manner not conforming to airport approach regulations adopted under section forty A, or to establish the right so to do, may apply to the administrative agency authorized to administer such regulations or, if there is no such agency, to the city council of the city or to the selectmen of the town, for a variance from the regulations applicable to his property. Such variances shall be allowed where a literal application or enforcement of such regulations would result in a practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest. (3) In granting any permit or variance under this section to which the applicant is not entitled as of right, the administrative agency, city council or selectmen, as the case may be, may, if it deems such action advisable to effectuate the purposes of sections forty A to forty I, inclusive, and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the city or town at its own expense, to install, operate, and maintain suitable obstruction markers and obstruction lights thereon.

## SECTION 40E

Any city or town adopting airport approach regulations under section forty A may delegate the duty of administering and enforcing such regulations to any administrative agency under its jurisdiction, or may establish an administrative agency for the purpose. The duties of such administrative agency shall include that of hearing and deciding all applications for permits and variances under section forty D.

## SECTION 40F

If any structure is erected in violation of any regulation adopted under section forty A, the administrative agency, city council or selectmen, as the case may be, having jurisdiction may direct the owner of said structure, at his own expense, to lower, remove, reconstruct or equip such structure in such manner as may be necessary to conform to such regulations. Notice of such order shall be sent by registered mail to the owner of the land upon which such structure stands, addressed in the same manner as the notice of his last preceding annual tax, unless a different owner or a different address is known by such agency, city council or selectmen, as the case may be, to be the correct one, and if such owner shall neglect



or refuse to comply with such order for thirty days after sending of the notice thereof, such agency, city council or selectmen, as the case may be, may proceed to cause such structure to be lowered, removed, reconstructed or equipped in accordance with its or their order. Such agency, city council or selectmen, as the case may be, shall certify the expense so incurred with respect to each parcel of land to the assessors of the city and town, and the assessors shall assess such expense upon the owners of said parcels respectively, such expense shall be included in their taxes and constitute a lien upon the land, and all provisions of law relating to the collection and the abatement of taxes and to interest thereon shall be applicable to such expense. If any tree is allowed to grow in violation of any regulations adopted under section forty A, said administrative agency, city council or selectmen, as the case may be, may request the owner of said tree to cut down said tree or so much thereof as has grown in violation of such regulation; and if said owner neglects or refuses to comply with such request within sixty days after the same was given, such agency, city council or selectmen, as the case may be, may enter upon his land, doing as little damage as possible, and cut off as much of said tree as has grown in violation of such regulations. No part of the expense of such removal shall be charged to the owner of the tree.

## SECTION 40G

- (1) In any case in which, in the opinion of the city council of a city, or the selectmen of a town, in which the real estate hereinafter referred to is located, or owning the airport in question, the public interest requires the establishment of protection to the approaches of a publicly owned airport by the acquisition of certain real estate or rights in real estate in the vicinity of such airport rather than by airport approach regulations, such city or town may take by eminent domain under chapter seventy-nine or chapter eighty A, or acquire by purchase or otherwise, such air rights, easements or other estate or interest in such real estate as will provide adequate protection. A city or town which has acquired real estate or rights therein as aforesaid may from time to time in like manner take or otherwise acquire additional real estate or rights therein, or may discontinue in whole or in part rights already so acquired.
- (2) Whenever airport approach regulations have been adopted or amended and the public safety and convenience require the removal or lowering of a structure or tree not conforming to such regulations, as adopted or amended, or require other interference with the continuance of any such non-conforming structure or tree, the city or town owning the airport to which such regulations relate may take by eminent domain under chapter seventy-nine or chapter eighty A, or acquire by purchase or otherwise, the land upon which such structure or tree stands, or such an air right, easement or other estate or interest therein, as may be necessary to effectuate any purpose of sections forty A to forty I, inclusive.
- (3) If the adoption of airport approach regulations under section forty A in itself constitutes the taking of the property, or of rights in property, of any person, he may recover under said chapter seventy-nine compensation for such taking from the city or town in which the airport to which such regulations relate is situated, by petition filed in the superior court within two years from the time when such regulations were recorded as provided in said section forty A. If the owner of property so taken has applied for a variance under section forty D within one year after such regulations were so recorded and his application is in whole or in part denied, he may file his petition for damages within one year after the mailing to him of a notice of the denial of his application or within two years after the recording of the regulations,

whichever period ends later. If the adoption and recording of airport approach regulations under section forty A is held to constitute a taking of property or of rights in property, such taking and the adoption of such regulations shall not be deemed to be invalid because the requirements of chapter seventy-nine with respect to the taking of property, notice thereof and the award of damages were not complied with.

## SECTION 40H

If any corporation subject to regulation by the department of public utilities is aggrieved by the adoption of airport approach regulations under section forty A, or by a direction to lower, remove, reconstruct or equip a structure under section forty F, or by the taking of its property or rights in property under section forty G, or by refusal to grant a variance permit as provided in section forty D, such corporation, within thirty days after such adoption, direction, taking or refusal, may appeal to said department, and if, after notice and a hearing, said department determines that the public safety, necessity and convenience will be best served by the amendment or annulment of such regulation, direction or taking, it may order such regulation, direction or taking to be amended or annulled, or may grant a variance permit as prescribed in section forty D.

## SECTION 40I

Airport approach regulations adopted under section forty A, and orders for the taking of property under section forty G, shall be submitted as soon as may be after adoption to the commission for its approval. The commission shall, within thirty days after such submission, approve or disapprove the same; and no such regulation or order shall have force or effect until approved by the commission or until thirty days shall have elapsed without action thereon. Subsequent steps required by law shall be taken after such approval or expiration of thirty days without action.

## SECTION 41

The commission, or the director if so designated by it, may hold investigations or hearings relative to matters covered by any provision of sections thirty-five to fifty-two, inclusive, or of any order, rule or regulation of the commission, and shall hold investigations relative to any accident involving personal injury occurring in connection with aeronautics within the commonwealth.

The commission shall report to the civil aeronautics board aeronautical accidents within the commonwealth, and so far as possible shall preserve, protect and prevent the removal of the component parts of any aircraft involved in any such accident being investigated by it.

## SECTION 42

The superior court shall have jurisdiction in equity to enforce any lawful rule, regulation or order made by the commission or any of its members or by a city or town under any provision of sections thirty-five to fifty-two, inclusive, and may compel the attendance of and the giving of testimony by witnesses before the commission or any member thereof, in the same manner and to the same extent as before said court.

## SECTION 43

The commission shall keep on file for public inspection at the office of the state secretary, and also at its principal office, a copy of all its orders and general and special rules and regulations, as amended from time to time.

## SECTION 44

Any person failing to comply with any requirement, or violating any provision, of sections thirty-five to fifty-two, inclusive, or the rules and regulations for the enforcement of said sections made by the commission, or airport approach regulations made by a city or town under section forty A, and in full force and effect, shall be punished by a fine of not less than ten nor more than five hundred dollars, or by imprisonment for not less than one month nor more than six months, or both. Whoever operates an aircraft while under the influence of intoxicating liquor shall be punished by imprisonment for not less than one month nor more than two years.

## SECTION 45

Any person aggrieved by any rule or approach or other regulation made under sections thirty-five to fifty-two, inclusive, or by any ruling, decision or order under any provision of said sections or of any such rule or regulation may, within thirty days after the effective date of such rule or regulation or within thirty days after such ruling, decision or order, appeal to the superior court sitting in equity for the purpose of having the lawfulness thereof inquired into and determined. Upon such appeals, said court may make such orders and decrees as justice and equity may require and parties to such appeals shall have all rights of appeal and exception as in other equity cases.

## SECTION 46

Flight of aircraft over the lands and waters of this commonwealth, within the navigable airspace as defined in section thirty-five, shall be lawful unless at such a low altitude as to interfere with the then existing use to which the land or water or space over the land or water is put by the owner or occupant, or unless so conducted as to be imminently dangerous to persons or property lawfully on the land or water beneath.



## SECTION 47

The public safety requiring, and the advantages of uniform regulation making it desirable in the interest of aeronautical progress that a person engaging within this commonwealth in navigating or operating aircraft in any form of navigation should have the qualifications necessary for obtaining and holding a pilot's license, permit or certificate, issued by the Civil Aeronautics Authority of the United States or other proper licensing authority, no person shall operate or navigate any aircraft in this commonwealth unless such person is the holder of an appropriate effective pilot's license, permit or certificate, issued by said authority; provided, that this restriction shall not apply to persons operating military aircraft of the United States or possessions thereof, public aircraft of any state or territory, or any aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft, nor to glider pilots licensed by the commission in accordance with such regulations as it may prescribe, nor to persons operating model aircraft, nor to any person piloting an aircraft which is equipped with fully functioning dual controls when a certificated instructor is in full charge of one set of said controls and such flight is solely for instruction or for the demonstration of said aircraft to a bona fide prospective purchaser thereof, nor to qualified airmen operating an aircraft on the ground at an airport, except on a landing area.

## SECTION 48

The public safety requiring, and the advantages of uniform regulation making it desirable in the interest of aeronautical progress, that aircraft operated within this commonwealth should conform with respect to design, construction and airworthiness to the standards prescribed by the United States government with respect to navigation of civil aircraft subject to its jurisdiction, no aircraft shall be operated or navigated within the commonwealth unless such aircraft has an appropriate effective license, permit or certificate, issued by the Civil Aeronautics Authority of the United States or other proper licensing authority and is registered by said authority; provided, that this restriction shall not apply to military aircraft of the United States or possessions thereof, public aircraft of any state or territory, aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft, nor to model aircraft operated in accordance with such regulations as the commission may prescribe, nor to gliders licensed by the commission in accordance with such regulations as it may prescribe; and provided, further, that the commission may waive the provisions of this section for the purpose of inspection or test flights of a non-passenger carrying aircraft.

## SECTION 49

Each resident airman, and owner and operator, or owner or operator, of all aircraft and dealer in aircraft shall register the federal certificate of said airman, aircraft or dealer in aircraft in such manner as the commission may by regulation prescribe.

- (a) Subject to the limitations of paragraph (c) and (e), every person who pilots an aircraft within the commonwealth shall register his federal airman's certificate with the commission and shall renew such registration each two-year period thereafter in which he pilots an aircraft within the commonwealth. The commission may charge for each such registration and for each renewal thereof, a fee not exceeding five dollars for each two-year period.
- (b) Subject to the limitations of paragraphs (c) and (e), every person who operates an aircraft shall register the federal aircraft certificate of said aircraft with the commission during each period in which the aircraft is operated within the commonwealth. Every person who is a dealer in aircraft shall register his federal dealer's aircraft registration certificate with the commission. The commission may charge for each such registration, and for each such renewal thereof, fees as follows—Aircraft weighing less than two thousand pounds, forty-eight dollars; two thousand and one to thirty-five hundred pounds, seventy-six dollars; thirty-five hundred and one to twelve thousand five hundred pounds, one hundred twelve dollars; over twelve thousand five hundred pounds, one hundred forty-eight dollars. For the purpose of the above, the weight considered will be the gross weight as published by the manufacturer. The commission may charge for the registration of each federal dealer's aircraft registration certificate the sum of sixty dollars, and twenty-eight dollars for each aircraft in his possession operated solely for the purpose of sale or demonstration. Such fees shall be in lieu of all personal property taxes on aircraft authorized by any law, ordinance or by-law. Registration certificates issued after expiration of the first six months of the biennial registration period, as prescribed by the commission, shall be issued at the rate of seventy-five percent of the biennial fee. Those issued after twelve months shall be charged fifty percent; those issued after eighteen months twenty-five percent.
- (c) Possession of the appropriate effective federal certificate, permit, rating or license relating to competency of the pilot or ownership and airworthiness of the aircraft, as the case may be, and the payment of the appropriate fee as set forth in this section, shall be the only requisites for registration of a pilot, an aircraft, or a dealer in aircraft.
- (d) Aircraft registration fees shall be reimbursed to persons who surrender their certificates before the date of expiration in accordance with the following schedule—

Before the first six months of the period, seventy-five percent of said fee;

Before the first twelve months of the period, fifty percent;

Before the first eighteen months of the period, twenty-five percent.

- (e) The provisions of this section shall not apply to:

(1) An aircraft owned by, and used exclusively in the service of, any government, including the government of the United States or of any state thereof, or political subdivision thereof, which is not engaged in carrying persons or property for commercial purposes;



- (2) An aircraft registered under the laws of a foreign country;
- (3) An aircraft owned by a non-resident and based in another state;
- (4) An aircraft engaged principally in federally certificated scheduled airline operation having a certificate of public convenience and necessity issued by the civil aeronautics board of the United States or its successor;
- (5) A person piloting an aircraft engaged principally in federally certificated scheduled airline operation;
- (6) A person piloting an aircraft owned by, and used exclusively in the service of, any government, including the government of the United States or carrying persons or property for commercial purposes;
- (7) A person piloting an aircraft registered under the laws of a foreign country;
- (8) A non-resident piloting aircraft within the commonwealth;
- (9) A person operating model aircraft;
- (10) A person piloting an aircraft equipped with fully functioning dual controls when a properly certificated pilot is in full charge of one set of controls and such flight is solely for instruction or for the demonstration of said aircraft to a bona fide prospective purchaser.

## SECTION 49A

A full record shall be kept by every court of every case in which a person is charged with a violation of any provision of sections thirty-five to fifty-two, inclusive, of this chapter, or of the rules and regulations for the enforcement of said sections made by the commission, or of airport approach regulations made by a city or town under section forty A, and an abstract of such record shall be sent forthwith by the court to the commission. Said abstracts shall be made upon forms prepared by the commission, and shall include all necessary information as to the parties to the case, the nature of the offence, the date of the hearing, the plea, the judgment and the result; and every such abstract shall be certified by the clerk of the court as a true abstract of the record of the court. The commission shall keep such records in its office, and they shall be open to the inspection of any person during reasonable business hours.

## SECTION 49B

The following words, as used in sections forty-nine B to forty-nine R, inclusive, shall, unless the context requires otherwise, have the following meanings—(a) "Judgment", any judgment which has become final upon a claim for damages suffered by a claimant arising out of the ownership, operation, maintenance or use of any aircraft, including damages for care and loss of services, because of bodily injury to or death of any person or injury to or destruction of property, including the loss of use thereof, or upon an agree-



ment of settlement for such damages. (b) "Non-resident's operating privilege", the privilege conferred upon a non-resident by the commonwealth pertaining to the operation by him of an aircraft, or the use of an aircraft owned by him therein. (c) "Operator", any person who is exercising actual physical control of an aircraft. (d) "Owner", any of the following persons who may be legally responsible for the operation of an aircraft—(1) A person who holds the legal title to an aircraft; (2) A lessee of an aircraft; (3) A conditional vendee, a trustee under a trust receipt and a mortgagor or other person holding an aircraft subject to a security interest. (e) "Passenger", any person in, on or boarding an aircraft for the purpose of riding therein, or alighting therefrom following a flight or attempted flight therein. (f) "Registration", a certificate of registration of aircraft engaged in air navigation or of operators thereof, issued by the commission. (g) "Notice", notice in writing served upon a person by either (1) Actual delivery or offer of delivery to such person by any disinterested person; or (2) Registered mail addressed to the person at the last address known by the commission. (h) "State", any state, the District of Columbia, any territory or possession of the United States and the commonwealth of Puerto Rico. (i) "Claimant", any person having a claim for damages as the result of an accident within the commonwealth involving an aircraft.

## SECTION 49C

- (a) The commission shall administer and enforce the provisions of sections forty-nine B to forty-nine R, inclusive, and may make rules and regulations necessary for the administration thereof, which shall become effective ten days after the filing of the same with the state secretary.
- (b) The commission shall provide for hearings upon request of any person who may be affected by its orders or acts under the provisions of said sections, and shall provide for a stay thereof until a hearing may be had.
- (c) Any person aggrieved by any order or act of the commission, or by a failure of the commission to act hereunder, may have judicial review thereof as provided in the General Laws for judicial review of the orders or acts of administrative agencies.

## SECTION 49D

- (a) Not later than thirty days after receipt of an accident report, the commission shall determine by an order entered of record (1) the amount of security within the limits specified in section forty-nine E, which it deems sufficient to satisfy any judgment for damages resulting from such accident which may be recovered against each owner or operator, and (2) the name and address of each claimant. (b) Not later than thirty days after the entry of the order required by sub-section (a) the commission, unless there is deposited for the benefit of the owner or operator or both, security in the sum so determined by the commission, upon ten days' notice shall suspend—
  - (1) If the owner is a resident, the registration of the owner and the registration of all aircraft owned by him.
  - (2) If the owner is a non-

resident, the non-resident's operating privilege of the owner and of all aircraft owned by him. (3) The registration or non-resident's operating privilege of the operator. (c) The provisions of sub-sections (a) and (b) shall not apply— (1) To the operator or the owner of the aircraft if the commission determines upon satisfactory evidence that he is not charged with responsibility for the accident by a claimant, or to the operator of an aircraft involved in an accident in which no injury was caused to the person of any one other than the operator, and no damage in excess of one hundred dollars was caused to property not owned, rented, occupied or used by such operator nor in his care, custody or control nor carried in or on the aircraft. (2) To the operator or owner of an aircraft if at the time of the accident the aircraft was stationary, without passengers thereon or boarding the aircraft or alighting therefrom, and the aircraft was parked in an area legally used for aircraft parking with no engine running nor in the process of being started. (3) To the owner of an aircraft if at the time of the accident the aircraft was being operated, or was parked, without his permission, express or implied. (4) To the owner if there is in effect at the time of the accident an aircraft liability policy or bond with respect to the aircraft involved in the accident. (5) To the operator, if not the owner of the aircraft, if there is in effect at the time of the accident an aircraft liability policy or bond with respect to his operation of the aircraft involved in the accident. (6) To the operator or owner if his liability for damages resulting from such accident is covered by any other form of liability insurance policy or bond in effect at the time of the accident. (7) To any person qualifying as a self-insurer under section forty-nine G, or to any person operating an aircraft for the self-insurer for whose acts the self-insurer is legally responsible; nor (8) After there is filed with the commission satisfactory evidence that the person otherwise required to deposit security has been released from liability, or been adjudicated not to be liable by judgment, or executed a written agreement with all claimants providing for payment of an agreed amount with respect to all claims for injuries or damages resulting from the accident. (d) The provisions of sub-section (b) may be waived by the commission, in its discretion, if there is filed with the commission by all claimants consent in writing that the person chargeable be allowed continuing operating privilege. If such waiver is granted by the commission, it shall continue for six months from the date of the consent and thereafter unless the consent is revoked in writing. (e) The commission may take the action authorized hereby or may modify or rescind the same at any time necessary to carry out the provisions of sections forty-nine B to forty-nine R, inclusive, upon ten days' notice of the person affected thereby.

## SECTION 49E

(a) A policy or bond provided under section forty-nine D shall be issued by an insurer or surety company authorized to do business in the commonwealth, or issued by an insurer or surety company not authorized to do business in the commonwealth, but found by the commission to afford adequate protection, and which has filed or shall file with the commission a power of attorney authorizing the commission to accept service on its behalf of notice or process in any action upon the policy or bond arising out of such accident; and shall (1) If the accident results in bodily injury to or death of a person not a passenger, provide coverage of not less than five thousand dollars because of bodily injury to or death of one person in any accident, and ten thousand dollars because of bodily injury to or death of two or more



persons in any one accident. (2) If the accident involves an aircraft being operated for hire and the accident results in bodily injury to or death of a passenger, provide coverage of not less than ten thousand dollars because of bodily injury to or death of one person in any one accident and not less than ten thousand dollars multiplied by the number of passenger-seats in the aircraft because of bodily injury to or death of two or more persons in any one accident. (3) If the accident involves an aircraft not being operated for hire and the accident results in bodily injury to or death of a passenger, provide coverage of not less than five thousand dollars because of bodily injury to or death of one person in any one accident, and not less than five thousand dollars multiplied by the number of passenger-seats in the aircraft because of bodily injury to or death of two or more persons in any one accident, and (4) If the accident results in damage to or destruction of property, provide coverage of not less than five thousand dollars because of damage to or destruction of property in any one accident, with the exception of the following property which is exempted from the security required under section forty-nine D—property owned, rented, occupied or used by, or in the care, custody or control of the owner or operator or carried in or on the aircraft. (b) The policy or bond need not cover any liability on account of bodily injury to or death of any employee of the owner or operator while the employee is engaged in the duties of his employment; or any obligation for which the owner or operator or his insurer may be held liable under any workmen's compensation law.

## SECTION 49F

A registration or a non-resident's operating privilege suspended under section forty-nine D shall not be restored or renewed with respect to the aircraft involved in or the owner or operator liable for the accident until— (a) Security is deposited as required under section forty-nine D; or (b) One year shall have elapsed following the date of such suspension and satisfactory evidence is filed with the commission that during such period no action for damages arising out of the accident has been instituted; or (c) Satisfactory evidence is filed with the commission of a release from liability, or a judgment of non-liability as to all persons damaged or injured in the accident, or a written agreement, in accordance with paragraph (8) of sub-section (c) of section forty-nine D. If there is a default in payment under such written agreement, then upon ten days' notice of the owner or operator, the commission shall suspend the registration of non-resident's operating privilege of such person defaulting, and the same shall not be restored unless and until (1) Such person deposits and thereafter maintains security as required under section forty-nine D in such amount as the commission may then determine, within the limits provided in section forty-nine E, or (2) One year has elapsed following the time when such security was required and during such period no action upon the agreement has been instituted in a court of the commonwealth; or (d) Satisfactory evidence is filed with the commission that any judgment against such person for damages resulting from the accident has been satisfied in full or that there has been paid thereon an amount equal to the applicable limits set forth in section forty-nine E; or (e) Written consent thereto has been filed with the commission by all claimants and the same is approved by the commission.

## SECTION 49G

(a) Any person may at any time apply to the commission for a certificate of self-insurance, whether or not there has occurred an accident as a result of which he might be affected by some other provision of sections forty-nine B to forty-nine R, inclusive. (b) The commission may issue a certificate of self-insurance when satisfied that the applicant is possessed and will continue to be possessed of ability to pay judgments against him within the limits provided in sections forty-nine B to forty-nine R, inclusive. (c) Upon not less than ten days' notice of a self-insurer the commission may for reasonable cause cancel a certificate of self-insurance, and shall cancel such certificate upon failure to pay any judgment within thirty days.

## SECTION 49H

(a) In case the operator or owner of an aircraft involved in an accident within the commonwealth has no certificate of registration, or is a non-resident, he shall not be allowed a certificate of registration or a non-resident's operating privilege, until he has complied with the requirements of sections forty-nine B to forty-nine R, inclusive. (b) When a non-resident's operating privilege is suspended pursuant to section forty-nine D or section forty-nine F, the commission shall transmit a certified copy of the record of such action to the official or department regulating the operation of aircraft in the state in which the non-resident resides, if the law of the other state provides for the action in relation thereto, similar to that provided for in sub-section (c). (c) Upon receipt of notice that the operating privilege of a resident of the commonwealth has been suspended or revoked in any other state pursuant to a law providing for its suspension or revocation for failure to deposit security for the payment of judgments arising out of an aircraft accident, under circumstances which would require the commission to suspend a non-resident's operating privilege had the accident occurred in the commonwealth, the commission upon ten days' notice shall suspend his registration if he were the operator of an aircraft involved in the accident, or if he were the owner of an aircraft involved in the accident and was legally responsible for its operation. Such suspension shall continue until the resident furnishes evidence of his compliance with the security requirements of the law of the other state.

## SECTION 49I

(a) The security required under section forty-nine D shall be cash or securities permissible under state law as security for deposit of state funds and in such amount as the commission may require but in no case in excess of the limits specified in section forty-nine E in reference to the limits of a policy or bond. If at the time of the accident there is in effect a liability policy or a bond meeting the requisites of section forty-nine E other than the amount of coverage set forth in said section, the commission may consider such policy or bond in fixing the amount of security. The person depositing security shall specify in writing the person or persons on whose behalf the deposit is made and, at any time while such deposit is in the custody of the state treasurer the person



depositing it may, upon approval of the commission, amend in writing the specification of the person or persons on whose behalf the deposit is made to include an additional person or persons; provided, however, that a single deposit of security shall be applicable only on behalf of persons required to furnish security because of the same accident. Interest and other income upon securities deposited as herein provided shall be paid or inure to the benefit of the person making the deposit. (b) Upon ten days' notice of the parties concerned, the commission may reduce, or, within the limits specified in section forty-nine E, increase the amount of security ordered in any case if in its discretion the amount ordered is excessive or insufficient. In case the security originally ordered has been deposited, the excess shall be returned to the depositor notwithstanding the provisions of section forty-nine J. Substitution of security shall be permitted.

## SECTION 49J

Security deposited in compliance with the requirements of section forty-nine I shall be delivered to the custody of the state treasurer and shall be released only— (a) Upon certificate of the commission in the payment of a judgment rendered against the person or persons on whose behalf the deposit was made, for damages arising out of the accident in a civil action, begun not later than one year after the date of the accident or within one year after the date of deposit of any security under sub-section (c) of section forty-nine F or in the payment of a settlement, agreed to by the depositor and all the claimants, of a claim or claims arising out of the accident. (b) Upon certificate of the commission issued after ten days' notice to all claimants upon evidence satisfactory to the commission that all claims arising from such accident have been satisfied by either (1) A release from liability, or (2) A judgment of non-liability, or (3) A written agreement in accordance with paragraph (8) of sub-section (c) of section forty-nine D or whenever, after the expiration of one year from the time of the accident or from the date of deposit of any security under sub-section (c) of section forty-nine F, the commission is given satisfactory evidence that there is no such action pending and that no judgment rendered in any such action is unpaid. (c) Upon the certificate of the commission that other security complying with sub-section (a) of section forty-nine I and satisfactory in form, character and amount, has been deposited with it in lieu of the original security deposited.

## SECTION 49K

The commission shall, upon written request, make available to persons whose legal rights may be affected thereby, information and material developed in the course of its administration of sections forty-nine B to forty-nine R, inclusive.

## SECTION 49L

No transfer of registration of aircraft of which the owner's registration has been suspended shall be deemed valid or accepted by the commission, unless the transferor or transferee demonstrates to the satisfaction of

the commission that the transfer of registration is the result of a bona fide transaction of purchase and sale, and not for the purpose, or with the effect, of defeating the purposes of sections forty-nine B to forty-nine R, inclusive. Nothing in this section shall affect the rights of any lessor or conditional vendor, chattel mortgagee, or other person holding a security interest in any aircraft registered in the name of another as owner who become subject to the provisions of said sections.

## SECTION 49M

Any person whose registration is suspended shall immediately return his registration certificate to the commission. If any person fails or refuses to return such certificate to the commission, it shall petition the superior court for the county of Suffolk, sitting in equity, which court may, after hearing, order such person to return such certificate to the commission.

## SECTION 49N

(a) Any owner or operator whose registration or non-resident's operating privilege has been suspended or revoked and who, during such suspension or revocation, operates any aircraft in the commonwealth or knowingly permits any aircraft owned by him to be operated by another in the commonwealth, except as permitted under sections forty-nine B to forty-nine R, inclusive, shall be punished by a fine of not less than ten dollars nor more than five hundred dollars. (b) Any owner or operator wilfully failing to return his registrations as required in section forty-nine M shall be punished by a fine of not less than ten dollars nor more than five hundred dollars.

## SECTION 49O

Sections forty-nine B to forty-nine R, inclusive, shall not apply to (a) Any aircraft owned and operated by or leased to and subject to the sole control of the United States or any civil or military agency of the United States or of the District of Columbia, the commonwealth of Puerto Rico or any territory or possession of the United States; (b) Any aircraft owned and operated by or leased to and subject to the sole control of any state or agency thereof or any political subdivision or municipality of any state; (c) Any aircraft owned and operated by or leased to and subject to the sole control of any foreign country or any civil or military agency thereof or any political subdivision or municipality thereof; or (d) Any aircraft owned or being operated by a public air carrier engaged principally in regularly scheduled inter-state or foreign air transportation for hire under either a federal certificate of public convenience and necessity or under a letter of registration or exemption order issued by the civil aeronautics board or its successor.

## SECTION 49P

Nothing in sections forty-nine B to forty-nine R, inclusive, shall be construed as precluding any party in any action or proceeding from employing other processes provided by law. The commission may proceed at law or in equity in the enforcement of said sections.

## SECTION 49Q

(a) Service of process as provided for in section fifty shall be made by serving the original thereof and a copy of the declaration upon the chairman of the commission or by filing the same in his office, together with a fee of two dollars and by the mailing of a copy of such process and of the declaration by the plaintiff or his attorney to the defendant, and to each of the defendants if more than one, at his last known address, within ten days thereafter by registered mail. In lieu of such mailing to such defendant in another state, plaintiff may cause a copy of the declaration and process to be served personally in such other state upon such defendant by any disinterested person, by actually delivering the same to such defendant or by offering to make such delivery in case the defendant refuses to accept delivery. (b) Proof of the service of such process upon the chairman of the commission or the filing thereof in his office, and proof of the mailing or personal delivery thereof to the defendant shall be made by the affidavit of the person doing the acts, which shall be filed in the office of the clerk of the court in which the suit is filed. Process shall be deemed to be completed upon the filing of such affidavit and of the original registry receipt if service is obtained by mail.

## SECTION 49R

A discharge in bankruptcy shall not relieve any person from the requirements of sections forty-nine B to forty-nine Q, inclusive.

## SECTION 49S

The provisions of sections forty-nine B to forty-nine R, inclusive, are hereby declared to be severable and if any such provision or the application of any such provision to any person or circumstance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed to affect the validity or constitutionality of the remaining provisions of said sections.

## SECTION 49T

Sections forty-nine B to forty-nine R, inclusive, may be cited as the Uniform Aircraft Financial Responsibility Act, and shall be so interpreted and construed as to effectuate its general purpose to make uniform the laws of those states enacting like laws.

## SECTION 50

The operation within this commonwealth by any person, by himself or his agent, of any aircraft, whether registered or unregistered, and whether with or without a license, permit or certificate to operate, shall be deemed equivalent to an appointment by such person of the chairman of the



commission, or his successor in office, to be his true and lawful attorney upon whom may be served all lawful processes in any action or proceeding against him growing out of any accident or collision in which he may be involved while operating aircraft within the commonwealth, and such operation shall be a signification of agreement by such person that any lawful process against him which is served upon said chairman of the commission, or his successor in office, as such attorney shall be of the same legal force and validity as if served on him personally, and that said chairman of the commission, and his successor in office, shall continue to be his said attorney so long as any liability on account of such an accident or collision remains outstanding against him. Sections three A to three E, inclusive, shall apply to such service.

## SECTION 51D

Upon appropriation and subject to all applicable provisions of law, airports and air navigation facilities may be established from time to time and may be maintained and operated by any city or town as provided in sections thirty-five to fifty-two, inclusive.

## SECTION 51E

In any city or town in which an airport is established under section fifty-one D, or under any provisions of law, there shall be established a board consisting of an odd number of members not less than three nor more than eleven in number, to be called the airport commission, which shall have the custody, care and management of the municipal airport of said city or town. Of the members appointed, at least one shall be a person having experience in aeronautics. Members of an airport commission holding office may continue to serve in such office and may be reappointed; provided, however, a vacancy resulting from the death, resignation or retirement of a member of an airport commission shall be filled by the appointment of a person having experience in aeronautics unless one of the remaining members has such experience. An airport commission may be established as herein provided in any city or town for the purpose of establishing an airport therein. Except as provided otherwise in any special law, enacted prior to January first, nineteen hundred and forty-seven, relating to an airport commission in any city or town, the members of the airport commission shall be appointed, in cities, by the mayor with the approval of the city council, and in towns by the selectmen. In the initial appointment of the members of such an airport commission, their terms shall be so arranged that one third of the members, as nearly as possible, will expire each year; and thereafter when the term of any member expires his successor shall be appointed to serve for the term of three years and, in each instance, until the qualification of his successor. Vacancies in the commission shall be filled for the unexpired term by the appointing authority. The members of said airport commission shall annually choose one of their members as chairman. The airport commission may appoint an airport manager who shall be qualified by general management experience and aeronautical knowledge and shall be the executive officer of said commission, and may also appoint an assistant airport manager who shall be qualified as aforesaid. Neither the airport manager nor the assistant airport manager shall be subject to chapter thirty-one. The assistant airport manager shall act in place of the airport manager at such times and under such conditions as the airport commission may direct. The airport manager, and the assistant



airport manager when acting in place of the airport manager under the direction of the airport commission, shall be responsible to said commission for the proper maintenance and operation of such airport and of all facilities under his supervision. Subject to appropriation, said commission shall appoint such other officers and employees as its work may require and shall fix the salaries of all officers and employees appointed or employed by it.

## SECTION 51F

An airport commission may let or lease such airport, or any part thereof, for a period not to exceed twenty years, and with the approval of the mayor and the city council in cities or the approval of a town meeting, as the case may be, may so let or lease for a longer period; provided, that no such airport in the cities of New Bedford and Beverly shall be let or leased except with the approval of the mayor and the city council, or in the town of Southbridge by vote of the town.

## SECTION 51G

For the purpose of establishing an airport, the airport commission of a city or town, whenever appropriations have been made therefor, may take property by eminent domain under chapter seventy-nine or chapter eighty A of the General Laws, or may acquire property by purchase, lease or otherwise, both within and without its territorial limits for airport purposes and may so take or acquire such easements in airport hazards outside the boundaries of an airport or airport site as may be necessary for the removal or the prevention of the establishment of any airport hazard. No real property shall be purchased for any purpose by any airport commission for a price more than twenty-five percent in excess of its average assessed valuation during the previous three years. For the purpose of making surveys or examinations relative to any proposed taking by eminent domain, such airport commission or its authorized agent may make a reasonable entry upon land.

## SECTION 51H

An airport commission shall determine the charges or rentals for the use of any properties, facilities, installations, landing fees, concessions, uses and services and shall determine the terms and conditions under which contracts may be executed by the commission on behalf of such city or the town. Such charges or rentals shall be reasonable and shall be established with due regard to the property used and the expenses to the airport commission of the operation thereof. In all such contracts as may be executed for the foregoing privileges or licenses or any of them the public shall not be deprived of its rightful, legal and uniform use of such properties, facilities and installations.

## SECTION 51I

The airport commission of any city or town shall be authorized to expend any funds granted to, or received from any source or appropriated by, such city or town for airport purposes and may make contracts for the maintenance, operation, construction, enlargement and improvement of the airport and for the purchase of materials, supplies and equipment pursuant to the laws of the commonwealth governing the making of like contracts; provided, that where such maintenance, operation, construction, enlargement and improvement of the airport, and purchase of materials, supplies and equipment, is financed wholly or partly with federal moneys, the airport commission may act in the manner prescribed by the federal authorities, acting under the laws of the United States, and any rules or regulations made thereunder, notwithstanding any other law of the commonwealth to the contrary.

## SECTION 51J

An airport commission shall adopt rules and regulations for the use of municipal airports or for the safety of the public upon or beyond the limits of airports under its control, whether such airport facilities are within or without the territorial limits of the city or town. Such rules and regulations shall not be effective until approved by the Massachusetts aeronautics commission and published in the same manner that by-laws and ordinances are required to be published. Such rules and regulations shall conform to and be consistent with the laws of the commonwealth and the rules and regulations of the Massachusetts aeronautics commission, and shall not be inconsistent with or contrary to any act of the Congress of the United States relating to aeronautics or any regulations promulgated or standards established pursuant thereto.

## SECTION 51K

Any airport commission established by law obtaining an offer for a grant of federal funds shall designate the Massachusetts aeronautics commission as its agent to receive federal moneys and receipt therefor in its behalf, and shall enter into an agreement with said last mentioned commission prescribing the terms and conditions of such agency in accordance with federal laws, rules and regulations and applicable laws of the commonwealth.

Every such airport commission may invite bids for any contract involving the acquisition, establishment, construction, enlargement, protection, equipment, maintenance or operation of an airport, the site for which has been approved as provided by section thirty-nine B, and shall submit every such proposed contract to said Massachusetts aeronautics commission for approval. After approval has been given, said airport commission may award such contracts; provided, that the liability incurred shall not exceed the funds available therefor, including the appropriation voted and the amount of any gift or bequest, together with the amount or amounts stated in any existing agreements for the allotment or grant of funds by the federal government or commonwealth, or both.



If a city or town shall have an agreement with the federal government or the commonwealth whereby such government or commonwealth grants such city or town a sum of money to be used, with funds provided by said city or town, for an airport, and shall be required primarily to pay that portion of the expense for which reimbursement is to be received from such grant, or grants, the treasurer of such city or town, with the approval of the mayor or selectmen, as the case may be, in anticipation of the proceeds of such grant, or grants, may incur debt, which shall be outside of the debt limit, to an amount not exceeding the amount of the grant or grants, as shown by the grant agreement or agreements and may issue notes therefor payable in not more than one year from their dates. Any loan issued under this section for a shorter period than one year may be refunded by the issue of other notes maturing within the required period; provided, that the period from the date of issue of the original loan to the date of maturity of the refunding loan shall not be more than one year. The proceeds of the grant or grants, so far as necessary, shall be applied to the discharge of the loan.

## SECTION 51L

All contracts for the acquisition, establishment, construction, enlargement, improvement, protection, equipment, maintenance or operation of airports or other air navigation facilities, made by an airport commission itself or through the agency of the Massachusetts aeronautics commission, shall be made pursuant to the laws of the commonwealth governing the making of like contracts; provided, however, that where such acquisition, establishment, construction, enlargement, improvement, protection, equipment, maintenance or operation is financed wholly or partly with federal moneys the airport commission, or the Massachusetts aeronautics commission as its agent, may let contracts in the manner prescribed by the federal authorities, acting under the laws of the United States, and any rules or regulations made thereunder, notwithstanding any other law of the commonwealth to the contrary.

N.B. By Sec. 2, Ch. 613 of the Acts of 1946, the provisions of Secs. 51D-51L inclusive with respect to municipal airports shall also apply to all such airports established prior to its effective dates; provided, that nothing therein contained shall invalidate any lease or contract entered into prior to said effective date.

## SECTION 51M

Neither the commonwealth nor any city, town or other authority shall give or grant any contract, license, permit or franchise to any person for the transportation of persons for hire by public or private carrier, or to any person engaged in the business of leasing motor vehicles under the "drive-it-yourself" system, so called, or any similar system, which contract, license, permit or franchise by its terms purports to give to such a person, public carrier, private carrier or lessor, as the case may be, an exclusive right to receive or deliver passengers or engage in said business of leasing motor vehicles at or on the property of any publicly owned or controlled airport or any airport constructed in whole or in part with federal, state or other public funds.

## SECTION 51N

Two or more municipalities, by vote of the city council in a city with the approval of the mayor or by vote of a town meeting in a town, may agree to establish, maintain and operate an airport as a joint enterprise, in this section referred to as a joint airport. For the purposes of this section, the foregoing authorization, insofar as it relates to the establishment of a joint airport, shall be deemed also to authorize the acquisition, construction, enlargement and improvement thereof, including other action involving capital expenditures in connection with such an airport, all of which action shall be comprehended within the meaning of the words "establish", "establishing" and "establishment", and such authorization, insofar as it relates to the maintenance and operation of such an airport, shall be deemed also to authorize the regulation, protection, policing, alteration or repair thereof, including other action involving expenditures, other than capital expenditures, in connection with such an airport, all of which action shall be comprehended within the meaning of the words "maintain and operate", "maintaining and operating" and "maintenance and operation". Within thirty days after such votes have been passed and the mayor and city council of cities and selectmen of towns which have so voted shall meet and draft a tentative agreement covering the contemplated action or actions. Said tentative agreement when completed shall be submitted and may be resubmitted to the director of accounts in the department of corporations and taxation for approval as to its financial provisions and to the commission for approval as to its other provisions. The agreement, as approved by the commission and said director, shall become effective when agreed to by the mayor and city council of each such city and the town meeting of each such town. Any reference in this section to the mayor of a city shall, in case of a city having a Plan E form of government, be deemed to refer to its city manager. In addition to the provisions covering the requirements contained in this section, such an agreement shall include, but shall not be limited to, provisions for the following—

(1) Establishing a joint airport commission for the purpose of exercising as agent all of the powers relative to the joint airport granted to each participating municipality, specifying the terms of office and compensation of each member of such a commission; (2) Choice by the joint airport commission of officers of the joint enterprise including a treasurer who may be treasurer of one of the participating municipalities and who shall be custodian of the joint airport fund and shall deposit with the director of accounts a bond running to such municipalities with a surety company authorized to transact business in the commonwealth as surety, for the faithful performance of his duties as treasurer of the joint enterprise, in such form and upon such conditions as said director may require. Said director shall cause an audit to be made of the accounts of the joint enterprise and may cause subsequent audits to be made of such accounts annually, and for this purpose he and his duly accredited agents shall have access to all necessary books, papers and records. Upon completion of such audit, copies of the report thereof shall be sent to the treasurer of the joint enterprise and to the mayor, selectmen, and city or town clerk of each participating municipality; (3) Establishing a joint airport fund into which there shall be deposited the proportionate share of the cost and expenses incident to the establishing, maintaining and operating of the joint airport, all revenues obtained from or on account of the joint airport and all federal, state and other contributions or loans and from



which disbursement shall be made by order of the joint airport commission; (4) Specifying the proportionate interest of each participating municipality in the joint airport and its proportionate share of the cost and expenses and indebtedness incident to the establishing, maintaining and operating thereof, which proportionate interest and share shall be determined on the basis of the taxable valuations of said municipalities as last established by the general court as a basis for state and county taxes or on any other basis agreed upon; (5) Terminating the joint enterprise and liquidating its affairs; (6) Amending the agreement, provided that any amendment thereof providing for the enlargement of the joint airport or any alteration or improvement thereof involving capital expenditures shall become effective only when agreed to by the mayor and city council of each participating city and the town meeting of each participating town. The joint airport commission from time to time shall determine the amount necessary to be raised to establish the joint airport and shall apportion the balance needed, over and above the amount available for such purposes in the joint airport fund, among the several participating municipalities on the basis set forth in the agreement and shall promptly thereafter notify said municipalities of such apportionment by sending notice to the mayor, in the case of a city, and to the selectmen, in the case of a town. There shall be no referendum to the voters on any action taken under this paragraph by the legislative body of any participating municipality. In case any such municipality fails to pay over to the treasurer of the joint enterprise the amount of its apportionment within the time specified in the agreement for such payment, the treasurer of such municipality shall forthwith certify such amount to the board of assessors of his municipality who shall include such amount in the tax levy next following the certification, and the amount when raised shall be paid over by the treasurer of such municipality to the treasurer of the joint enterprise. The joint airport commission shall determine the amounts necessary to be raised to maintain and operate the joint airport and shall apportion the balance needed, over and above the amount available for such purposes in the joint airport fund, among the several participating municipalities on the basis set forth in the agreement and shall promptly thereafter notify the treasurers of said municipalities of such apportionment. Every treasurer so notified shall, annually in December, certify the amount of such apportionment to the board of assessors of his municipality, who shall, unless funds are available from appropriation or otherwise, include such amount in the tax levy of the following year, and the amount of such apportionment shall be paid over by the treasurer of such municipality to the treasurer of the joint enterprise within the time specified in the agreement for such payment. Action by a participating municipality in establishing, maintaining and operating a joint airport shall be authorized to the same extent and subject to the same provisions of law as in the case of like action by such municipality independently with respect to an airport, except as otherwise provided in this section and except that the joint airport commission is authorized to acquire property by eminent domain, purchase or otherwise for purposes of the joint airport in the names of the participating municipalities but only within the territorial limits of such municipalities, and each of such municipalities shall have the same interest in the property so acquired that it has in the joint airport under the agreement.

## SECTION 52

If any provision of said sections thirty-five to fifty-one, inclusive, is declared unconstitutional or the application thereof to any person or circumstance is held invalid, the validity of the remaining provisions thereof and the application of such provision to other persons and circumstances shall not be affected thereby.

## CHAPTER 6 GENERAL LAWS (TER. ED.)

### SECTION 17

The armory commission, the art commission, the commission on administration and finance, the commissioner of veterans' services, the commissioners on uniform state laws, the public bequest commission, the state ballot law commission, the board of trustees of the Soldiers' Home in Massachusetts, the board of trustees of the Soldiers' Home in Holyoke, the milk regulation board, the alcoholic beverages control commission, the state housing board, the trustees of the state library, the state racing commission, the Greylock reservations commission, the port of Boston commission, the Massachusetts commission against discrimination, the state airport management board, weather amendment board, council for the aging, the boxers' fund board, Massachusetts commission on atomic energy, finance advisory board, medical, dental and nursing scholarship board, retirement law commission, the Massachusetts aeronautics commission, the obscene literature control commission, the Massachusetts rehabilitation commission, and the commission on employment of the handicapped shall serve under the governor and council, and shall be subject to such supervision as the governor and council deem necessary and proper.

### SECTION 57

There shall be a commission to be known as the Massachusetts aeronautics commission, consisting of five members to be appointed by the governor, no more than three of whom shall, at any one time, be members of the same political party. Of the members so appointed three shall be persons having practical experience in aeronautics. Upon the expiration of the term of office of a member of the commission, his successor shall be appointed for a term of five years and shall serve until the qualification of his successor. The governor shall from time to time designate one of the members of the commission to act as chairman. Each member of the commission shall receive the sum of twenty dollars for each day or part thereof of service as a commissioner; provided, that no member shall receive in any fiscal year for such service a sum in excess of two thousand dollars.

The commission shall be provided with suitable offices at the General Edward Lawrence Logan Airport and elsewhere within the commonwealth as the commission may determine.

The commission may, subject to appropriation, incur such expenses as may be necessary to administer and enforce the provisions of sections thirty-five to fifty-two, inclusive, of chapter ninety and other laws of the commonwealth relating to aeronautics.



The commission may pay a proper charge for effecting insurance providing for the indemnification and protection of a pilot of the aircraft under its custody, care and control, for expenses or damages incurred by him in the defense or settlement of claims against him for bodily injuries, death, or for damage to property arising out of his operation of such aircraft while acting within the scope of his official duties or employment.

The commission shall make an annual report to the general court.

## SECTION 58

The commission shall employ a director who shall be exempt from chapter thirty-one, and shall receive such salary, as the commission, with the approval of the governor and council, may fix. He shall be appointed with due regard to his fitness, by reason of aeronautical training and knowledge of and recent practical experience in aeronautics, for the efficient exercise of his powers and duties. He may be removed from office only by the affirmative votes of four members of the commission. Such duties as the commission shall deem expedient may be delegated to the director.

## SECTION 59

The director shall be the executive officer of the commission and, subject to its supervision and control, shall administer the provisions of sections thirty-five to fifty-two, inclusive, of chapter ninety and the rules, regulations and orders issued and promulgated thereunder, and all other laws of the commonwealth which grant powers to or impose duties upon the commission. He shall attend all meetings of the commission but shall have no vote.

The commission may employ such employees and assistants as may be necessary to carry out the provisions of sections thirty-five to fifty-two, inclusive, of chapter ninety. Each member of the commission and each employee and assistant thereof, including the director, shall be reimbursed for all necessary traveling and other expenses incurred by him in the discharge of his official duties.

## CHAPTER 255 GENERAL LAWS (TER. ED.)

### SECTION 31E

Persons, including but not limited to the commonwealth and any department, commission, division, agency or branch thereof, maintaining public landing, parking, storage, and tie-down facilities for the landing, parking, storage, and tie-down care of aircraft brought to their premises on an airport or placed in their care by or with the consent of the owners thereof, shall have a lien upon such aircraft for proper charges due them for the landing, parking, storage and tie-down and care of the same, which lien may be enforced as provided in sections twenty-six to thirty-one, inclusive, of this chapter.

## CHAPTER 59 GENERAL LAWS (TER. ED.)

### SECTION 6

Property held by a city, town or district, including the metropolitan water district, in another city or town for the purpose of a water supply, the protection of its sources, or of sewage disposal, or of a public airport, if yielding no rent, shall not be liable to taxation therein; but the city, town or district so holding it shall, annually on July first, pay to the city or town where it lies an amount equal to that which such city or town would receive for taxes upon the average of the assessed values of the land, which shall not include buildings or other structures except in the case of land taken for the purpose of protecting the sources of an existing water supply, for the three years last preceding the acquisition thereof, the valuation for each year being reduced by all abatements thereon. Whenever a city or town in which such land is located shall have made a general revaluation of all its real property for purposes of taxation, the valuation of such land for the purpose of payments authorized by this section shall be determined by the state tax commission as of January first, between January first and June first, in the year nineteen hundred and seventy and in every fifth year thereafter, so that the payment with respect to such land shall remain substantially the same as that made prior to such revaluation. The city, town or district owning such land, if aggrieved by the determination of the commission, may within three months after written notice thereof appeal to the appellate tax board. Any part of such land or buildings from which any revenue in the nature of rent is received shall be subject to taxation. Revenue received for the use of such areas of land within the property so held for the purpose of a public airport as are used for the takeoff and landing of aircraft, including runways and taxi strips, or for the use of buildings on such property, which are used as a terminal or administration building or for housing, servicing and repairing aircraft, shall not be deemed to be rent or revenue in the nature of rent within the meaning of this paragraph.

If such land is part of a larger tract which has been assessed as a whole, its assessed valuation in any year shall be taken to be that proportional part of the valuation of the whole tract which the value of the land so acquired, exclusive of buildings, bore in that year to the value of the entire estate.

## CHAPTER 799 GENERAL LAWS

### SECTION 1

As used in this act, unless the context otherwise required—"Airport" means the General Edward Lawrence Logan Airport. "Airport approach zone" means any airspace defined and shown as such zone upon a map on file in the office of the state secretary on August first, nineteen hundred and fifty-one, entitled Map of Approach Zones, General Edward Lawrence Logan Airport, Boston, Mass. "Airport hazard" means any structure or tree which extends into any airport approach zone. "Commission" means the Massachusetts aeronautics commission. "Structure" means any object constructed or installed by man, including any object regulated or licensed under other provisions of law. "Tree" means a tree or any other object of natural growth.



## SECTION 2

It is hereby declared to be the policy of the commonwealth that the existence of any airport hazard endangers the lives and property of users of the airport, and of occupants of land in its vicinity, and effects a reduction of the area available for the landing, taking off and maneuvering of aircraft, thus tending to impair the utility of the airport and the public investment therein. Accordingly, it is necessary in the interest of the public health, safety and general welfare that the creation, establishment or maintenance of airport hazards be prevented by exercise of the police power, without compensation to any person, except as hereinafter specifically provided.

## SECTION 3

There are hereby established for the General Edward Lawrence Logan Airport the airport approach zones defined and shown upon the map described in section 1. The commission is hereby authorized, after due notice and hearing, to make rules and regulations to explain said map and the markings thereon, and from time to time to amend them, after like notice and hearing. Any person aggrieved by any such rule or regulation or by any order issued by the commission under the provisions of this act may, within thirty days after such order, appeal to the superior court sitting in equity, for the purpose of having the legality thereof determined. Upon such appeals, said court may make such orders and decrees as justice and equity may require, and parties to such appeals shall have all rights of appeal and exception as in other equity proceedings.

## SECTION 4

The commission may, subject to appropriation, take by eminent domain, or acquire by purchase or otherwise, any airport hazard or the land on which it stands, or both.

## SECTION 5

No person shall erect or permit to be erected or maintained an airport hazard as defined herein and may be restrained from so doing by a decree of the superior court sitting in equity. If such person shall neglect or refuse to comply with such court decree for thirty days, or within such further time as the commission may allow, the commission shall cause such airport hazard to be lowered, removed, reconstructed or equipped in accordance with said decree. The commission shall certify the expenses so incurred with respect to each parcel of land to the assessors of the city of Boston, and the assessors shall assess such expense upon its owner; such expense shall be included in his taxes and constitute a lien upon the land, and all laws relating to the collection and the abatement of taxes and to interest thereon shall apply to such expense. Except as herein otherwise provided, no damages shall be recovered by any person erecting such airport hazard after the effective date of this act.

## SECTION 6

If any tree is allowed to grow in such manner as to become an airport hazard, the commission may request its owner to remove or trim it so that it will no longer constitute such a hazard, and if he neglects or refuses to comply with such request within sixty days, may enter upon his land and remove or trim said tree without expense to him.

## SECTION 7

Any notice required to be given under the provisions of sections three to eight, inclusive, shall be given to every person having any interest of record in any property referred to in said notice.

## SECTION 8

Any person claiming damage to his property by reason of the establishment hereby of airport approach zones, and for which damage no provision has been made herein for the recovery thereof may within ninety days after the effective date of this act petition the superior court for a determination of the question of whether or not as to him the establishment of said zones constitutes an unreasonable exercise of the police power. Should said court find that they are unreasonable, then as to such petitioner the zones shall be held invalid. Any person who fails reasonably to take advantage of the provisions of this section shall not thereafter be permitted to petition for the assessment of damage to his property.

## SECTION 9

Chapter 412 of the acts of 1939 is hereby repealed.

## SECTION 10

The provisions of this act are hereby declared to be severable, and if any such provision, or the application of any such provision to any person or circumstance shall be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not be construed to affect the validity or constitutionality of any of the remaining provisions of this act, or the application of such provision to persons or circumstances other than those to which it is so held invalid or unconstitutional. It is hereby declared to be the legislative intent that this act would have been passed had such provision not been included therein.

## CHAPTER 44 GENERAL LAWS

Section 8 of Chapter 44 of the General Laws is hereby amended by striking out clause (13), as most recently amended by section 4 of Chapter 298 of the acts of 1947, and inserting in place thereof the following clause— (13) For the acquisition, construction, establishment, enlargement, improvement or

protection of public airports, including the acquisition of land, ten years; but the outstanding indebtedness so incurred shall not exceed one percent of the last preceding assessed valuation of the city or town. The proceeds of indebtedness incurred hereunder may be expended for the acquisition, construction, establishment, enlargement, improvement or protection of such an airport, including the acquisition of land, jointly by two or more municipalities.

## CHAPTER 59 GENERAL LAWS

Section 5 of chapter 59 of the General Laws is hereby amended by adding after clause Thirty-seventh, added by chapter 379 of the acts of 1953, the following clause—

Thirty-eighth, In determining the valuation, for city and town tax purposes, of any privately owned airport, the value of any improvements on or to the landing area shall not be included, so long as the owner grants free use of said landing area to the general public for the landing, taking off and taxiing of aircraft; provided, said airport meets the minimum requirements set forth by the Massachusetts aeronautics commission in rules and regulations issued under section thirty-nine, chapter ninety, and is certified by the Massachusetts aeronautics commission to be included within the needs of civil aeronautics as established by the state airport plan prepared under section thirty-nine A of chapter ninety, and is approved for commercial operation by the Massachusetts aeronautics commission.

## CHAPTER 558 GENERAL LAWS

### SECTION 1

Chapter 64H of the General Laws is hereby amended by inserting after section 25 the following section—

SECTION 25A. The director of the division of motorboats shall not issue a certificate of number for a motorboat under section three of chapter ninety B and the aeronautics commission shall not register a federal certificate for an aircraft under section forty-nine of chapter ninety, except in the case of a renewal by the same owner, until the owner shall furnish evidence, on such forms as shall be prescribed by the commissioner, that any tax due under the provisions of this chapter has been paid or that no such tax is due.

### SECTION 2

Section 27 of said chapter 64H, as appearing in section 1 of chapter 757 of the acts of 1967, is hereby amended by adding the following paragraph—

Where a trade-in of an airplane is received by a dealer in airplanes, who has registered his federal dealer's aircraft registration, upon the sale of another airplane to a consumer or user, the tax shall be imposed only on the difference between the sales price of the airplane purchased and the amount allowed on the airplane traded in on such purchase. When any airplane



traded in is subsequently sold to a consumer or user, the tax provided for in this section shall apply.

### SECTION 3

Section 7 of chapter 64I of the General Laws is hereby amended by striking out paragraph (b), as appearing in section 2 of chapter 757 of the acts of 1967, and inserting in place thereof the following paragraph—

(b) Sales exempt from the taxes imposed under chapter sixty-four H; provided, however, that in the case of the purchase of any motor vehicle or trailer, as defined in section one of chapter ninety, or any boat or airplane, other than from a vendor who is regularly engaged in the business of making sales at retail of such motor vehicles, trailers, boats or airplanes, the receipts from which are exempt from the tax imposed under said chapter sixty-four H, the purchaser thereof, except when said purchaser is the spouse, mother, father, brother, sister or child of the seller, shall pay the tax imposed by this chapter.

### SECTION 4

Said chapter 64I is hereby further amended by inserting after section 26 the following section—

SECTION 26A. The director of the division of motorboats shall not issue a certificate of number for a motorboat under section three of chapter ninety B and the aeronautics commission shall not register a federal certificate for an aircraft under section forty-nine of chapter ninety, except in the case of a renewal by the same owner, until the owner shall furnish evidence, on such forms as shall be prescribed by the commissioner, that any tax due under the provisions of this chapter has been paid or that no such tax is due.

### SECTION 5

Section 28 of said chapter 64I, as appearing in section 2 of chapter 757 of the acts of 1967, is hereby amended by adding the following paragraph—

Where a trade-in of an airplane is received by a dealer in airplanes, who has registered his federal dealer's aircraft registration, upon the sale of another airplane to a consumer or user, the tax shall be imposed only on the difference between the sales price of the airplane purchased and the amount allowed on the airplane traded in on such purchase. When any airplane traded in is subsequently sold to a consumer or user, the tax provided for in this section shall apply.

### SECTION 6

This act shall apply to sales of boats and airplanes made and certificates of number of motorboats issued and registration of federal aircraft certificates made on and after its effective date.

## CHAPTER 90 GENERAL LAWS

**SECTION 39B** of Chapter 90 of the General Laws is hereby amended by inserting after the last paragraph thereof the following paragraph:

Notwithstanding the provisions of this section and section 45 of Chapter one hundred and thirty one any city or town in which the whole or any portion of any great pond as defined by section one of chapter one hundred and thirty-one is situated may, as to so much thereof as is located within its boundaries, make and enforce rules and regulations relative to the use and operation of aircraft equipped with floats or other means of transportation on water, provided however, that such regulations, ordinances, or by-laws must first be approved by the aeronautics commission.

## CHAPTER 882, ACTS OF 1975

AN ACT AUTHORIZING THE MASSACHUSETTS AERONAUTICS COMMISSION TO COLLECT CHARGES FOR PROVIDING AIR TRANSPORTATION TO PUBLIC AGENCIES AND OFFICIALS.

**SECTION 1.** Section 39 of Chapter 90 of the General Laws is hereby amended by inserting after the first paragraph the following paragraph:

The commission may provide air transportation for state agencies and officials, provided said agencies or officials pay to the commission the charge established for such service. Said charge shall be set by the commission to equal the hourly operative cost of fuel, hangaring, maintenance, labor, parts, aircraft crew overtime and expenses associated with each flight operation, and the replacement of aircraft equipment. Receipts shall be paid into the state treasury and kept in a separate account and may be expended, subject to appropriation, for the purposes aforesaid. The commission may, subject to appropriation, operate aircraft suitable for the above purpose.

**SECTION 2.** Funds due to the Massachusetts aeronautics commission on the effective date of this act for air transportation services previously rendered shall be paid into the fund established under section one of this act, and the sum of sixteen thousand dollars may be expended therefrom without further appropriation.







